

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

)
)
) APPLICATION OF MEMPHIS
) NETWORKX, LLC FOR A CERTIFICATE
) OF PUBLIC CONVENIENCE AND
) NECESSITY TO PROVIDE INTERSTATE
) TELECOMMUNICATION SERVICES
) AND JOINT PETITION OF MEMPHIS
) LIGHT, GAS & WATER DIVISION,
) A DIVISION OF THE CITY OF
) MEMPHIS, TENNESSEE ("MLG&W")
) AND A&L NETWORKS-TENNESSEE,
) LLC ("A&L") FOR APPROVAL OF
) AN AGREEMENT BETWEEN MLG&W
) AND A&L REGARDING OWNERSHIP
) OF MEMPHIS NETWORKX, LLC.
)

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ENCLOSURE

DOCKET NO. 99-00909

**RESPONSE OF INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
LOCAL 1288 TO REQUEST OF APPLICANT AND JOINT PETITIONERS
TO DENY THE EXPANSION OF THE ROLE OF IBEW AS INTERVENOR**

COMES NOW the International Brotherhood of Electrical Workers, Local 1288 ("IBEW"), Intervenor in the above docket, and files this Response to the Request of Memphis Networkx, LLC ("Applicant") and Memphis Light, Gas & Water Division and A&L Networks-Tennessee, LLC ("Joint Petitioners") to deny the expansion of the role of the IBEW in the above docket:

1. On November 24, 1999, the Applicant filed an application with the Tennessee Regulatory Authority ("TRA") for a certificate of public convenience and necessity to provide telecommunications services. Additionally, Joint Petitioners sought approval of the Operating Agreement of Memphis Networkx, LLC pursuant to T.C.A. §7-52-103(d).

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2. On March 9, 2000, the Pre-Hearing Officer filed a report and recommendation to the TRA, which listed nine issues, identified the number of witnesses expected by the parties to testify in this Docket, and established a procedural schedule. This report was subsequently approved by the TRA.
3. On April 3, 2000, the IBEW filed a Petition to Intervene in this proceeding, which was heard in a Pre-Hearing Conference held April 5, 2000. At the time of this Conference, the matter was scheduled for a hearing beginning April 13, 2000. Because of this pending hearing, and because this Petition had been filed after the procedural schedule had been established, counsel for the IBEW requested at the Conference that it be allowed to participate in this Docket to the full extent possible without causing any undue delay of the matter.
4. Subsequent to this, pursuant to the Pre-Hearing Officer's Order of April 25, 2000, the IBEW was permitted to intervene to permit it to monitor the proceedings, obtain copies of documents, and to make an opening statement at the beginning of the hearing. Also, IBEW counsel was permitted to cross-examine witnesses who were already scheduled to appear at the hearing in limited areas.
5. Subsequent to granting of the IBEW's Petition to Intervene the hearing of this Docket has been essentially rescheduled twice. The April 13 hearing date was rescheduled to May 1, 2000. Then on May 2, because of filing of the Amended Application, the matter was rescheduled indefinitely. At the status conference held May 2, the IBEW requested that its role be expanded to add additional witnesses and to conduct additional cross-examination to address the issues that were raised in its Petition of Intervene.

6. The IBEW respectfully submits that it should be allowed to participate fully in this matter, since the issues it raised at the May 2 status conference, as well in its Petition and its Brief involve the public good and should be addressed fully. Furthermore, unlike its position when it first intervened, this matter now not scheduled for a date certain and, essentially the matter is back to "square one" of the process. IBEW's Petition to Intervene was filed later in this proceeding only because it had not been fully apprized by the Applicant and Joint Petitioners of the full impact of the proposed venture on it and the public in general. As soon as it became aware of this impact, it filed its Petition. Allowing the IBEW now to participate fully is in the interest of justice, and the conduct of these proceedings will not be impaired by allowing such intervention, given what has transpired since its Petition was originally filed.

WHEREFORE, Intervenor respectfully requests that it be allowed to participate fully in this Docket, present additional witnesses, fully participate in cross-examination of scheduled witnesses and be allowed to address the issues listed in the March 9, 2000 Report, as well as those that it raised its Petition to Intervene.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Lee J. Bloomfield, do hereby certify that on May 16th, 2000, a copy of the foregoing document was served on the parties of record listed below via facsimile and U.S. Mail, postage prepaid, first class.

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